

**REMARKS**

Applicant would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action, and amended as necessary to more clearly and particularly describe the subject matter which applicant regards as the invention.

**THE SPECIFICATION**

The specification has been objected to for punctuation. The specification has been amended as suggested by the Examiner.

**CLAIM OBJECTIONS**

Various objections have been made to the claim language in the outstanding Office Action. The Examiner's proposed changes have been adopted in the present amendment, since Webster's also indicates that those forms are permissible. Reconsideration is respectfully requested.

**THE REJECTIONS UNDER 35 U.S.C. § 112**

Claims 5, 12 and 18 had been rejected under Section 112, second paragraph, as allegedly being indefinite. These rejections are respectfully traversed,

particularly as applied to the claims as presently amended.

The limitation in claim 5 that recited "said latch arm is a first latch arm and said latch assembly further includes a second latch arm" was deemed unclear. In response thereto, claim 1 has been amended to recite "at least one latch arm" and the limitation in question in claim 5 has been amended to recite, "said at least one latch arm comprises a first latch arm and a second latch arm." Claims 12 and 13 have been amended in a manner consistent with the amendments to claims 1 and 5 as indicated above.

Claim 18 had been rejected since it is deemed to be "unclear how the latch housing can moves if the latch housing is coupled to the sliding member." It is respectfully submitted that the structure of the invention is clearly set forth in the disclosure and the claims. More specifically, since the latch housing is affixed to the sliding member, the latch housing must move with the sliding member. However, since the relationship between the actuator, latch housing and window is sufficiently set forth in the claims, clause d) of claim 18 has been amended to remove the reference to the latch housing.

It is respectfully submitted that the grounds of rejection under Section 112 have been overcome by the present amendment. Reconsideration and withdrawal of these rejections is therefore respectfully requested

#### THE INVENTION

The present embodiments are directed to a window assembly, including a fixed member, preferably a fixed window, and a sliding window that is slidably

movable relative to the fixed member. A catch housing is secured to the fixed member and a latch housing is secured to the slidable window. A latch assembly is movably secured to the latch housing and releasably secured to the catch housing. The latch assembly includes one or more latch arms, preferably two. The latch arms are pivotally secured to the latch housing and are biased into engagement with said catch housing.

The present latch assembly includes a latch actuator. It should be especially noted that this latch actuator is movable to pivot the latch arm(s) out of engagement with the catch housing. The latch actuator thereby permits the sliding window to be slidably moved away from said fixed member. This is very different from the prior art cited against the present claims in the outstanding Office Action.

#### **THE REJECTIONS UNDER 35 U.S.C. § 102**

Claims 1-5, 12 and 13 had been rejected under Section 102(b) as allegedly being anticipated by Smart (U.S. Pat. No. 6,174,003). These rejections are respectfully traversed, particularly as applied to the claims as presently amended.

Smart discloses a lock casing 10 in which a front plate 14 is affixed to a housing pall 15 and has an aperture 14a. A bolt assembly 11 includes two jaw portions 18, 19 that are carried by a slider member 20. When the slider member 20 is moved, the jaw portions 18, 19 are received in the aperture 14a. The jaw portions 18, 19 include curved cam surfaces 32, 33 that contact a keeper element 16 that moves the jaw portions 18, 19 to an open position (see Fig. 2). When the slider element 20 is moved all the way into engagement, the jaw portions 18, 19 close

around the keeper element 16 to securely hold the bolt assembly 11 in place (see Fig. 3). It is noted that the bolt assembly may be simply slid from the extended position (Fig. 3) to the retracted position (Fig. 1). In this regard, reference is made to col. 3, lines 57-63. Accordingly, if affixed to a sliding door, the bolt assembly would not serve as a lock to prevent opening of the door.

Many differences are apparent between Smart and the present claims. For one, Smart is disclosed for use with pivoting doors and windows, not slider windows as is the subject of the present invention. It should also be especially noted that there is nothing in Smart that can be construed as satisfying the "latch actuator" limitations of the present independent claims 1 and 12. There is no structure disclosed in Smart that can be construed as being movable to pivot the jaw portions 18, 19 out of engagement with the keeper element 16, so as to disengage the housing pall 15 from the lock casing 10. In fact, as disclosed in the reference, the bolt assembly 11 may only be displaced with a key that engages recesses 24 formed on the slider member 20. Neither the key nor the recesses 24 have any mechanical interaction with the jaw portions 18, 19.

It is further noted that Smart does not disclose an actuator being movable relative to the latch housing and latch arm, as recited in claim 1 as presently amended. Also, it is additionally noted that Smart fails to disclose a latch assembly being received within the latch housing wherein the actuated end of the latch arm is within the latch housing, as had been recited in claim 12. And still further, Smart does not disclose a latch actuator movable against a latch arm actuated end, as also had been recited in claim 12. Thus, for at the reasons discussed hereinabove, it is quite clear that Smart teaches away from the embodiments as presently claimed.

As noted briefly hereinbefore, the Smart device would be totally unsuitable as a lock for use with sliding windows, as is the subject of the present disclosure and claims. Rather, the Smart device is a type of lock designed for pivoting doors or windows (see col. 1, lines 28 *et seq.*). The device shown in Smart cannot lock a sliding window, such as with the present invention. The latch arms of Smart would simply pop open if the door were slid to the right! (See col. 3, lines 57-63.) Also, with the Smart device, the bolt assembly 11 is retained within the lock casing 10, and components retained in this manner could not be kept inside a glass window. Thus, in at least these respects also, it is respectfully submitted that the Smart reference teaches away from the presently claimed embodiments.

It is therefore respectfully submitted that the Smart reference fails to satisfy the requirements of anticipation as set forth in Section 102. It is therefore respectfully submitted that independent claims 1 and 12 are not anticipated by the Smart reference. It is respectfully submitted that the dependent claims follow for at least the same reasons as the independent claims, and also for reciting other limitations not found in the Smart reference. Therefore, reconsideration and withdrawal of these rejections are respectfully requested.

#### THE REJECTIONS UNDER 35 U.S.C. § 103

Claims 1-19 had been rejected under Section 103(a) as allegedly being unpatentable over Smith (U.S. Pat. No. 1,143,653) in view of Smart (U.S. Pat. No. 6,174,003) and further in view of Kornstein (U.S. Pat. No. 1,264,814). These rejections are also respectfully traversed, particularly as applied to the claims as

presently amended.

The Smith reference is directed to a type of sliding door lock having a pair of latches 28 that engage a keeper 17. The latches 28 are displaced by moving a spring-loaded operating yoke 36 having ends 35 that engage the latches 28. The differences between the Smith reference and the presently claimed invention are apparent by inspection of the Smith reference. It is noted that the "keeper 17" disclosed by the Smith reference is a type of protuberance similar to the "keeper element 16" of the Smart reference, discussed above. As admitted by the Examiner, the "keeper 17" is not a "catch housing" as recited at present. Thus, this structure does not have an open end for receiving and engaging the latch arms, as does the present catch housing. Therefore, the Smith device cannot be construed as receiving and retaining one or more latch arms as is the subject of the present invention.

The Examiner also admits that Smith fails to disclose using this sliding door lock with a window assembly. Indeed, it is not clear how this structure could be adapted for use with a window assembly. The Smith device is designed for use with sliding doors for barn doors, garages and the like. This device requires mounting structures on either side of the door, to securely hold the lock onto the door. The entire structure, configuration and operation of the Smith device would not be compatible for use with a glass window. Further, it is quite clear that Smith fails to disclose a body portion that projects from the latch housing and a latching end disposed outside of the latch housing, as had been recited in claim 12. It is therefore quite apparent that Smith teaches away from the present invention.

To arrive a lock that could be used with a window, the Examiner proposes a

combination of Smith with Smart, discussed hereinabove. The stated rationale for combining Smith with Smart is "to close the sliding member against the fixed member." However, since this is already the function of Smith, it is not apparent how exactly these references are to be combined, nor what value (if any) is obtained by this combination. Further, as has been shown above, Smart is directed to a lock for pivoting doors and windows, very different from the Smith device. It is respectfully submitted that any combination of these references would result in an inoperable device. At any rate, given the aforementioned problems with Smith for attachment to a window, and the fact that Smart is not functional to lock a sliding element, it is not clearly stated how this proposed combination is to be implemented in order to obtain this result of the claimed invention.

The Examiner also proposes a further combination with Kornstein. This reference discloses a type of keeper 23 fastened to a door jamb that receives shoulders 33 at an end of a pair of locking bolt sections 25. Kornstein is allegedly added to Smith and Smart "in order to secure that latch arm within the catch." However, though it would appear that some sort of structure is disclosed by Kornstein, it is not at all clear how the structures of these various devices are to be exchanged in order to arrive at a combination that would satisfy the present claims. Further, Kornstein does not disclose a catch having upper and lower walls with slotted openings. Rather, Kornstein discloses the use of spring biased pawls 41 to receive a shoulder 33 of the bolt. Therefore, even if Kornstein could somehow be combined with the other references, the claimed invention would not result.

It is also noted that e.g. with respect to claim 18, the limitations of a latching end disposed outside of the latch housing, and pivoting the latch arm about an axis,

etc. simply cannot be found in the references relied upon at present, taken alone or in combination. For at least this reason also, the proposed combination would fail to meet the requirements of the present claims.

With respect to the proposed combination of Smith with Smart and Kornstein, the Examiner has not explained the manner in which these references are to be combined. Indeed, the devices shown in the references are very different structurally. There are not compatible structures that can be exchanged between these devices to arrive at a workable embodiment. Thus, in order to produce a combination, it would be necessary to destroy the operability of each device depicted in the references. The resulting combination, as proposed, would therefore be inoperable.

In any event, there is nothing in the disclosures of these references that would lend themselves to a combination, as indicated by the Examiner. It is therefore respectfully submitted that there is no motivation for such a piecemeal combination. Indeed, one would not arrive at such a combination unless guided by a hindsight reading of the present disclosure. Notwithstanding, even if such a combination could somehow be obtainable from these references, it would still fail to satisfy the requirements of the present claims, since considerable modification of the various parts shown in the references would be required in order to end up with a working apparatus, well beyond the disclosures of these references.

In view of the above, it is respectfully submitted that the proposed combination fails to meet the limitations of independent claims 1, 12 and 18, and these independent claims are allowable over these references, alone or in combination. Reconsideration and withdrawal of these grounds of rejection is

therefore respectfully requested.

The combination of Smith, Smart and Kornstein has been made the basis for a number of rejections against the various dependent claims. Also, claims 6-10 and 14-17 have been rejected under Section 103(a) as being unpatentable over Smart in view of Kornstein. These references have been discussed above, and it is reiterated that these references, taken alone or in combination, still fail to disclose subject matter that meets the requirements of the present claims. Further, it is again noted that there is no motivation for such combinations, and that such combinations would destroy the operability of the disclosed devices.

The dependent claims recite many features also not shown by the prior art. For example, it is respectfully submitted that the limitations of claim 3 and 4 cannot be shown by the Smith reference as stated by the Examiner. Further, the limitations of dependent claims 7, 9, 14, 15, 17 and 19 cannot be found in any reference. It is respectfully requested that the Examiner either cite the portions of the reference(s) relied upon to satisfy these limitations, or else withdraw the rejections against these claims. New claims 20 and 21 are added to further point out and distinctly claim the subject matter regarded to be the invention. In any event, in view of the above, it is nevertheless respectfully submitted that these claims are allowable for at least the same reasons as the independent claims. Reconsideration and withdrawal of these rejections is therefore respectfully requested.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned to expedite prosecution

of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 18-0160, our Order No. HRA-14955.

Respectfully submitted,

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